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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/844,963	04/27/2001	James S. Mandle	D45701/000	1658

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EXAMINER

KRAMER, DEAN J

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 01/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/844,963	MANDLE ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Dean J. Kramer	3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 17 December 2002.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on 17 December 2002 is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)      4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)      5) Notice of Informal Patent Application (PTO-152)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.      6) Other: \_\_\_\_\_

## DETAILED ACTION

The amendment filed December 17, 2002 and the remarks presented therewith have been carefully considered. However, they are not deemed to be fully persuasive.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 4-10, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent # 711,452 in view of Shinn.

French Patent # 711452 shows several embodiments of holders for scouring devices each comprising a pair of opposed legs having gripping assemblies at their free

ends. Figure 6 shows outwardly oriented teeth (b,b') that are biased to an expanded position (see the dashed lines in Fig. 6) to grip a scouring pad. In this embodiment (Fig. 6), the teeth do not appear to move *in unison* to enter the scouring pad *at the same time* as is now called for in the claims of the instant application.

However, Shinn shows a gripping tool wherein opposing gripping means (F,G) are biased outwardly after inward pressure on the legs (A,B) is released to grip an article.

Accordingly, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to form the outwardly directed gripping means (b,b') of the French ('452) Figure 6 embodiment with a simple actuating means similar to that shown and disclosed in the Shinn patent so that a user could easily control the release of a used scouring pad with only slight inward pressure on the resiliently coupled legs. Regarding claims 6 and 7, it is pointed out that the French ('452) Patent shows embodiments in Figures 1-3 having inwardly and outwardly oriented legs.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent # 711,452 in view of Shinn as applied to claim 1 above, and further in view of German Patent # 3530401.

The modified French ('452) patent was presented above in section 3 and would substantially show the invention as set forth in claim 3 except for the gripping means comprising a plurality of hooks.

However, German Patent # 3530401 shows an embodiment of a pad holder in Figures 1 and 5 comprising a plurality of hook-shaped gripping means (16,16') for engaging a pad (20).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the teeth of the modified French ('452) holder with hook-shaped gripping means as taught by the German ('401) patent as an alternative yet functionally equivalent means of securing a pad to the holder.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent # 711,452 in view of Shinn as applied to claim 1 above, and further in view of Milano.

Milano shows a holding device operated by a user's finger comprising a pair of opposing legs each having a textured surface (62) for enhancing a user's grip.

It would have been obvious to a person having ordinary skill in the art to provide a textured grip enhancing surface on the outer surface of the modified French ('452) legs as taught by Milano so that a user could enjoy a more secure and comfortable grip on the holder.

### ***Drawings***

6. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 12-17-02 have been approved by the examiner. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Art Unit: 3652

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



1-30-03

Dean J. Kramer  
Primary Examiner  
Art Unit 3652

djk

January 30, 2003